IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 18672 of 2002

Date of decision : October 11, 2007

Om Parkash Sharma,

.....Petitioner

through Mrs. G.K.Hundal, Advocate

v.

The State of Haryana and others,

.....Respondents

through Mr.Ashish Kapoor, Addl.A.G.Haryana

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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RAJIVE BHALLA,J

The petitioner prays for the issuance of a writ in the nature of certiorari for quashing the notifications, dated 15.12.2000 and 6.12.2001, issued under Sections 4 and 6 of the Land Acquisition Act respectively.

Counsel for the petitioner contends that initially, the petitioner's land was notified for acquisition, vide notification, dated 8.2.1989, issued under Section 4 of the Land Acquisition Act (for short herein after referred to as "the Act"), for a public purpose, namely, for the development and utilization of land as residential/commercial and industrial area for development of Sectors 10 and 11. After the petitioner's objections, filed under Section 5-A of the Act were rejected, the State issued a declaration, dated 6.12.1990, under Section 6 of the Act. The aforementioned

notifications were challenged by the petitioner, as well as other land owners. CWP No.1018 of 1992, filed by the petitioner, was allowed and the impugned notifications therein were quashed. Thereafter, the state government issued a gazette notification, initiating the present proceedings of acquisition. It is contended that the petitioner's objections were disposed of in perfunctory and cursory manner and, therefore, the acquisition proceedings stand vitiated. It is further contended that no personal hearing was afforded to the petitioner, thus, violating the provisions of Section 5-A of the Act, that mandates a detailed inquiry into the objections, preferred by a land owner.

It is further submitted that the petitioner has raised `A' class construction, namely, a residential house and has been provided an electricity connection by the Electricity Department. The petitioner has installed a telephone connection and is residing in the house. The acquisition is, therefore, unjust and unfair.

Counsel for the respondents, on the other hand, contends that earlier notifications were quashed on technical grounds and would, therefore, not be a bar to fresh proceedings for acquisition. The petitioner's objections, filed under Section 5-A of the Act, were duly considered on 19.9.2002 by the Land Acquisition Collector, after providing proper opportunity of hearing to the petitioner. The Collector thereafter forwarded a report to the Government, whereupon a declaration, under Section 6 of the Act, was issued.

It is contended that taking into consideration the fact that the petitioner's constructed portion, measuring 7 marlas, has been released from acquisition, and the impugned notifications do not suffer from any

error of law or fact, the present writ petition be dismissed.

We have heard counsel for the parties and perused the paper book.

In the reply, filed by the respondents, it was asserted that constructed portion of land, measuring 7 marlas, has been released from acquisition. However, on 17.11.2003, the Senior Deputy Advocate General, Haryana sought time to obtain instructions if some vacant area, around the constructed portion of the petitioner, could be excluded from acquisition so that the petitioner may have access to his house. Thereafter, on 6.5.2005, the Senior Deputy Advocate General, Haryana reiterated, on instructions, that 7 marla, out of 1000 sq. yards, i.e 207.05 sq. mtr, had been left out from acquisition, for the benefit of the petitioner. On the basis of the aforementioned statement, the State was directed to produce the site plan of the area, on the next date of hearing, apparently with the object of examining, whether any vacant area had been released.

Mr. Kapoor, Addl. A.G.Haryana has produced a site plan of the released area. The site plan is taken on record. A perusal thereof reveals that the the petitioner's residential area, alongwith vacant area, has been released from acquisition. The released area is demarcated in the site plan in yellow. It is, thus, apparent that petitioner's primary grievance has been addressed.

As regards the petitioner's contention that objections, under Section 5-A of the Act, were not considered, in accordance with the mandatory provisions of the Act, suffice it to say that in the reply, filed to the writ petition, it has been specifically averred that the objections, filed by the petitioner, were duly considered, by the Land Acquisition Collector, on

19.9.2002, after providing an opportunity of hearing to the petitioner. The Collector submitted his report on individual objections to the Government for final decision. The petitioner has not denied the correctness of these averments by filing a rejoinder or an additional affidavit. Consequently, we are left with no other alternative but to hold that the petitioner's objections were disposed of, in accordance with law. Even otherwise, the fact that the constructed portion has been released from acquisition, suggests due consideration of the petitioner's objections. The writ petition is dismissed with no order as to costs.

(RAJIVE BHALLA)
JUDGE

(UMA NATH SINGH)
JUDGE

October 11, 2007
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